

**REMARKS**

Claims 45 and 71 are amended. Claims 24, 45, 52-61 and 71-73 are pending in the application. Claims 24, 52-54 and 59-61 are withdrawn from consideration.

With respect to the Examiner's request for restriction, applicant hereby affirms the provisional election made without traverse on June 17, 2004 to prosecute the invention of Species B (claims 45, 55-58 and 71-73). Applicant acknowledges withdrawal of claims 24, 52-54 and 59-61 from consideration as being drawn to a non-elected species.

Claims 45, 56 and 71-72 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Levinstein, U.S. Patent No. 4,378,628. The Examiner is reminded by direction to MPEP § 2131 that anticipation requires each and every element of a claim to be disclosed in a single prior art reference. Claims 45, 56 and 71-72 are allowable over Levinstein for at least the reason that Levinstein fails to disclose each and every limitation in any of those claims.

As amended, independent claim 45 recites forming a refractory metal silicide on and in direct physical contact with an upper surface of a compressive stress inducing material layer and after forming the refractory metal silicide, annealing at a temperature of less than or equal to about 750°C to form a refractory metal silicide of a second crystalline phase where the compressive stress inducing material induces sufficient compressive stress to lower an energy of activation for transformation of the first crystalline phase to the second crystalline phase. The amendment to claim 45 is supported by the specification at, for example, page 8, line 19 through page 9, line 14. The Examiner indicates reliance on the Levinstein disclosure at Fig. 5 and column 4, lines 56-68 and column 5, lines 1-17 which discloses forming a layer of phosphosilicate glass 25 and forming a refractory metal silicide

31 comprising a first crystalline phase. Referring to Fig. 5 and the accompanying text, applicant notes that Levinstein discloses formation of silicide electrode 31 to be laterally adjacent to layer 25 and that the silicide is subsequently oxidized to form a di-silicide electrode (col. 5, ll. 10-32). Levinstein does not disclose the claim 45 recited refractory metal silicide formed on and in direct physical contact with an upper surface of a compressive stress inducing material layer or the recited annealing to form a refractory metal silicide of a second crystalline phase where the compressive stress inducing material induces sufficient compressive stress to lower an activation energy for transformation from a first crystalline phase to the second crystalline phase. Claim 45 is therefore not anticipated by Levinstein and is allowable over this reference.

Claim 56 is allowable over Levinstein for at least the reason that it depends from allowable base claim 45.

As amended independent claim 71 recites forming a refractory metal silicide on and in direct physical contact with a compressive stress inducing material layer and annealing the compressive stress inducing material and refractory metal silicide, the compressive stress inducing material inducing sufficient compressive stress to lower an energy of activation for transformation of the first crystalline phase to the second crystalline phase. Independent claim 71 is allowable over Levinstein for at least reasons similar to those discussed above with respect to independent claim 45. Dependent claim 72 is allowable over Levinstein for at least the reason that it depends from allowable base claim 71.

Claims 45, 55-58 and 71-73 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Kawaguchi, U.S. Patent No. 5,739,573. Referring to pages 5-6 of the present Action, the Examiner indicates reliance on the Kawaguchi disclosure at Figs. 5C

and 5E and the text at column 11, lines 17-25 and column 12, lines 5-16 which discloses forming a refractory metal silicide 108aa, a slight portion of which overlaps layer 114a, and annealing to form a metal silicide of C54 crystalline phase. Applicant notes that Kawaguchi specifically indicates that the annealing to form a C54 structure is performed at 850° C (col. 11, ll. 17-19 and col. 12, ll. 5-16). Kawaguchi does not disclose the claim 45 and 71 recited annealing of a refractory metal silicide where a compressive stress inducing material induces sufficient compressive stress to lower an activation energy for transformation of the first crystalline phase to a second crystalline phase. Accordingly, independent claims 45 and 71 are not anticipated by and are allowable over Kawaguchi.

Independent claims 55-58 and 72-73 are allowable over Kawaguchi for at least the reason that they depend from corresponding allowable base claims 45 and 73.

For the reasons discussed above claims 45, 55-58 and 71-73 are allowable. Accordingly, applicant respectfully requests formal allowance of such claims in the Examiner's next action.

Respectfully submitted,

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